

Amendment No. 10 to HB1020

**Wirgau
Signature of Sponsor**

AMEND Senate Bill No. 1086

House Bill No. 1020*

by deleting all language after the caption and substituting instead the following:

WHEREAS, the department of tourist development ranks tourism as the second largest of Tennessee's industries, with an economic impact of over \$18 billion to the state, generating \$1.6 billion in tax revenue and over 157,000 jobs; and

WHEREAS, there has been significant growth in the economic impact of tourism in Tennessee that has exceeded the national growth level. The growth has been seen in multiple areas, including a 3.7% increase in expenditures, a 6.1% increase in payroll, and a 2.9% increase in job growth; and

WHEREAS, as reported by the Tennessee Advisory Commission on Intergovernmental Relations, on average, hotel and motel lodging accounts for less than 19% of travel expenditures in Tennessee, while the remaining travel expenditures are on items such as transportation, food service, entertainment, recreation, and retail; and

WHEREAS, a Tennessee tourist's ability to find convenient, economical, and safe lodging in a city where tourism expenditures are greatest is of issue to the State, as a reduction in such lodging or over-regulation of such lodging would have a significant economic impact on other travel expenditures and the State; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, is amended by adding the following new chapter:

66-38-101. This chapter shall be known and may be cited as the "Short Term Rental Unit Act."

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66-38-102. As used in this chapter:

(1) "Effectively prohibit" means to take any action by the local governing body, including a regulatory action, that, after reasonable compliance by the owner of the property, prevents the owner from using the property as a short-term rental unit;

(2) "Local governing body" means the legislative body of a municipal, metropolitan, or county government;

(3) "Local law" means an ordinance, resolution, regulation, rule, or other requirement of any type enacted, maintained, or enforced by a local governing body;

(4) "Owner-occupied property" means property that is the property owner's residential dwelling or residence, as determined pursuant to § 2-2-122, and includes all structures on the property that are otherwise a permitted use of the property;

(5) "Prohibit" means a ban or moratorium that applies to all property within a local governing body's jurisdiction or a portion of the local governing body's jurisdiction;

(6) "Residential dwelling" means a house or building used or designed to be used as an abode or home of a person, family, or household;

(7) "Short-term rental unit" means a residential dwelling, including a single-family dwelling or a unit in a multi-unit building, such as an apartment

building, condominium, cooperative, or time-share, that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days; and

(8) "Short-term rental unit provider" means any person or entity engaged in renting a short-term rental unit to an occupant.

66-38-103.

(a) Notwithstanding any provision of this chapter or other law to the contrary:

(1) A local governing body shall not take any action that would:

(A) Prohibit or limit the use of owner-occupied property as a short-term rental unit unless the prohibition or limitation was a local law enacted prior to January 1, 2017;

(B) Effectively prohibit the use of owner-occupied property as a short-term rental unit unless the effective prohibition was a local law enacted prior to January 1, 2017; or

(C) Amend a local law described in subdivision (a)(1)(A) or (a)(1)(B) if the amendment would have the effect of expanding the prohibition, limitation, or effective prohibition, including, but not limited to, amendments that would reclassify the property's occupancy designation, reduce the number of short-term rental unit permits available to owner-occupied property owners in all or a portion of the local governing body's jurisdiction, or reduce the number of permits available to an owner-occupied property owner; and

(2) For purposes of determining land use or utility rates, when determining whether an owner-occupied property conforms to the requirements of a residential zone or residential use, a local governing

body or a municipal utility shall not consider the renting of a residential dwelling as commercial activity, regardless of the term of the rental agreement. This subdivision (a)(2) shall not apply when determining classification of real property for property taxation purposes.

(b) Subsection (a) does not prohibit a local governing body from regulating property used as a short-term rental unit if the regulation does not prohibit, limit, or effectively prohibit the use of owner-occupied property as a short-term rental unit.

66-38-104.

(a) Notwithstanding any provision of this chapter or other law to the contrary, for purposes of property used as a residential dwelling that is not owner-occupied property, from April 1, 2017, through March 31, 2019:

(1) A local governing body shall not take any action that would:

(A) Prohibit or limit the use of property as a short-term rental unit unless the prohibition or limitation was a local law enacted prior to April 1, 2017;

(B) Effectively prohibit the use of property as a short-term rental unit unless the effective prohibition was a local law enacted prior to April 1, 2017; or

(C) Amend a local law described in subdivision (a)(1)(A) or (a)(1)(B) if the amendment would have the effect of expanding the prohibition, limitation, or effective prohibition, including, but not limited to, amendments that would reclassify the property's occupancy designation, reduce by more than one half of one percent (.5%) the total number of short-term rental unit permits in

all or a portion of the local governing body's jurisdiction, or reduce the number of permits available to a property owner; and

(2) For purposes of determining land use or utility rates, when determining whether a property conforms to the requirements of a residential zone or residential use, a local governing body or a municipal utility shall not consider the renting of a residential dwelling as commercial activity, regardless of the term of the rental agreement. This subdivision (a)(2) shall not apply when determining classification of real property for property taxation purposes.

(b) Subsection (a) does not prohibit a local governing body from regulating property used as a short-term rental unit if the regulation does not prohibit, limit, or effectively prohibit the use of property as a short-term rental unit.

(c) This section is repealed on April 1, 2019.

66-38-105.

Within existing resources and as part of its duty to encourage and coordinate the efforts of organizations to promote tourism, the department of tourist development shall complete a review of the economic impact of short-term rental units on the tourism industry and the overall economy of Tennessee. On or before July 1, 2018, the department shall submit a written report of its findings and recommendations made pursuant to this section to the speakers of the house of representatives and the senate.

66-38-106.

Nothing in this chapter prohibits a condominium, co-op, homeowners association, or other similar entity from prohibiting or otherwise restricting an owner of property within the jurisdiction of the condominium, co-op, association, or other similar entity from using the owner's property as a short-term rental unit.

66-38-107.

This chapter applies only to a county having a metropolitan form of government with a population of more than five hundred thousand (500,000), according to the 2010 federal census or any subsequent federal census, but not the cities excluded from the metropolitan government in such county.

66-38-108.

If any provision of this chapter or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to that end the provisions of this chapter shall be severable.

SECTION 2. Tennessee Code Annotated, Title 67, is amended by adding the following new chapter:

67-11-101. As used in this chapter:

- (1) "Department" means the department of revenue;
- (2) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in a short-term rental unit;
- (3) "Online short-term rental unit marketplace" means any person or entity that provides a digital platform for compensation, through which a third party offers to rent a short-term rental unit to an occupant;
- (4) "Sales price" has the same meaning as provided in § 67-6-102; but does not include a separately stated service fee imposed by an online short-term rental unit marketplace on a short-term rental unit transaction;
- (5) "Short-term rental unit" means a residential dwelling, including a single-family dwelling or a unit in a multi-unit building, such as an apartment building, condominium, cooperative, or time-share, that is rented wholly or partially for a fee; and

(6) "Short-term rental unit transaction" means any transaction in which there is a charge to an occupant by a short-term rental unit provider for the occupancy of any short-term rental unit.

67-11-102.

The department may enter a written agreement with an online short-term rental unit marketplace whereby the online short-term rental unit marketplace agrees to register with the department for the collection and remittance of the tax set forth in chapter 6 of this title on the sales price of a short-term rental unit.

SECTION 3. Tennessee Code Annotated, Section 68-120-101(i), is amended by deleting the last sentence and substituting instead the following:

For purposes of this subsection (i), "hospitality services" means offering sleeping accommodations to transients for less than thirty (30) nights per stay and includes a short-term rental unit as defined by § 66-38-102.

SECTION 4. Tennessee Code Annotated, Section 68-120-112(a)(4)(B), is amended by deleting the language "inns" and substituting instead the language "inns, short-term rental units as defined by § 67-11-101,".

SECTION 5. Tennessee Code Annotated, Section 68-120-112(d)(2), is amended by adding the following sentence to the end of the subdivision:

The provider of a short-term rental unit, as defined by § 67-11-101, is responsible for performance of maintenance, repairs, and tests as are necessary to ensure that every smoke alarm and carbon monoxide alarm required in the short-term rental unit, as defined by § 67-11-101, is operational at all times.

SECTION 6. Tennessee Code Annotated, Section 68-120-112, is amended by adding the following new subsection:

(1) This section applies only to buildings:

(A) That existed before January 1, 2016; or

(B) Being used as a short-term rental unit, as defined by § 67-11-101, that existed before July 1, 2017.

(2) Smoke alarms and carbon monoxide alarms shall be installed and maintained in accordance with the applicable building construction safety standards as provided in § 68-120-101 in buildings constructed on or after:

(A) January 1, 2016; or

(B) July 1, 2017, if the building is being used as a short-term rental unit, as defined by § 67-11-101.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.